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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 THE BANK OF NEW YORK MELLON FK
7 THE BANK OF NEW YORK, AS
8 TRUSTEE FOR THE
9 CERTIFICATEHOLDERS OF THE
10 CWALT, INC. ALTERNATIVE LOAN
11 TRUST 2006-33CF, MORTGAGE PASS-
12 THROUGH CERTIFICATES, SERIES
13 2006-33CB

Plaintiff,

v.

11 BRAEWOOD HERITAGE ASSOCIATION,
12 INC., *et al.*,

13 Defendants.

Case No. 2:17-cv-00336-MMD-DJA

ORDER

14
15 **I. SUMMARY**

16 Before the Court is Plaintiff Bank of New York Mellon's ("Plaintiff") motion for
17 attorney fees and costs ("Motion") against Defendant Marian L. Hammond ("Hammond").
18 (ECF No. 48.) Because Plaintiff has failed to submit sufficient information regarding its
19 attorneys' fees, the Motion is denied.

20 **II. BACKGROUND**

21 The relevant facts are recited in the Court's order. (ECF No 28.) As relevant here,
22 the Court granted default judgment against Hammond on Plaintiff's judicial foreclosure
23 claim. (ECF No. 45.) Plaintiff now brings this Motion to recover its attorneys' fees and costs
24 under the deed of trust, providing for the lender to recover such fees. (ECF No. 48; ECF
25 No. 45 at 19.)

26 **III. DISCUSSION**

27 "The part[y] seeking attorney's fees must establish [among other things] that the
28 fees are reasonable." *City Nat'l Bank v. Charleston Assocs., LLC*, No. 2:11cv-2023-MMD-

1 PAL, 2017 WL 1158816, at *1 (D. Nev. Mar. 28, 2017). Reasonable attorney's fees are
2 based on the "lodestar" calculation set forth in *Hensley v. Eckerhart*, 461 U.S. 424, 433
3 (1983). See *Fischer v. SJB-P.D., Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000). Courts must
4 first determine a reasonable fee by multiplying "the number of hours reasonably expended
5 on the litigation" by "a reasonable hourly rate." *Hensley*, 461 U.S. at 433. Courts consider
6 the experience, skill, and reputation of the attorney requesting fees when determining the
7 reasonableness of an hourly rate. *Webb v. Ada County*, 285 F.3d 829, 840 & n.6 (9th Cir.
8 2002). A reasonable hourly rate should reflect the prevailing market rates of attorneys
9 practicing in the forum community for "similar services by lawyers of reasonably
10 comparable skill, experience and reputation." See *id.*; *Blum v. Stenson*, 465 U.S. 886, 895-
11 96 n.11 (1984). "The party seeking an award of fees should submit evidence supporting
12 the . . . rates claimed." *Hensley*, 461 U.S. at 433; see also *Jordan v. Multnomah Cnty.*,
13 815 F.2d 1258, 1263 (9th Cir. 1987). A rate determined through affidavits is normally
14 deemed to be reasonable. *Blum*, 465 U.S. at 895-96 n.11.

15 Plaintiff has not provided sufficient information for the Court to determine whether
16 the attorneys' fees sought by Plaintiff are reasonable and are incurred relating to the
17 judicial foreclosure claim against Hammond. The latter deficiency is important given that
18 Plaintiff asserted and litigated claims against other defendants.¹ Plaintiff's counsel Jamie
19 K. Combs submits an affidavit (the "Affidavit") discussing partner Natalie L. Winslow's
20 involvement in the case, her experience in practice and her credentials. (ECF No. 48-1 at
21 2.) The Affidavit broadly outlines that "rates charged ranged from \$135 per hour for
22 paralegals to \$375 for partners." (*Id.* at 3.) However, Plaintiff has failed to identify the seven
23 other individuals who have charged Plaintiff fees and whose work altogether constitutes
24 half of the total hours worked in this case. (See *generally*, ECF No. 48-2.) These
25

26 ¹For example, one of Plaintiff's counsel's work entry charges \$229.50 in connection
27 with "[r]eviewing Court Docket/prior pleadings in preparation for drafting Request to Enter
28 Default, Default by Clerk, Attorney Affidavit in Support of *Default of Nyla G. Carson* and
Marian L. Hammond and draft same." (ECF No. 48-2 at 16 (emphasis added).) Plaintiff
cannot seek attorneys' fees from Hammond for work Plaintiff's counsel did in relation to
Co-Defendant Carson.

1 individuals are only identified by their initials (TAW, CJH, NMF, DTB, DH, KAW, and JKC),
2 but their positions at the firm, rates, experiences, and credentials remain unclear.² (*Id.*)
3 Without more, the Court cannot determine whether Plaintiff is seeking reasonable
4 attorneys' fees.

5 **IV. CONCLUSION**

6 It is therefore ordered that Plaintiff's motion for attorney fees and costs (ECF No.
7 48) is denied without prejudice.

8 DATED THIS 30th day of March 2020.

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11 _____
12 MIRANDA M. DU
13 CHIEF UNITED STATES DISTRICT JUDGE
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28 ²The Court advises Plaintiff that an aggregation of each person's hours would further assist the Court in determining the reasonableness of Plaintiff's attorneys' fees.